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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/782498
Filing Date: February 19, 2004
Appellant(s): FARN, BRIAN

Theodore D. Fay III
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/07/2007 appealing from the Office action mailed 07/10/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2003/0142128	Reulein	07-2003
6,202,199	Wygodny	03-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reulein et al. (US2003/0142128A1) further in view of Wygodny et al. (US620219991).

The detailed rejections are as follows:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 8, 15 and 22: Reulein discloses method, system and product for editing a plurality of column oriented programming language statements (Reulein: fig.7A and par. [0021]) presented to a user on a display screen (Reulein: fig.4: item# 202: "User

Interface")), comprising: identifying a template description for at least one of the plurality of column oriented programming language statements (Reulein: fig.7A and par. [0021]), wherein the template description defines at least one statement type (Reulein: par. [0057], lines 3-11). While Reulein discloses a GUI (Fig. 3), Reulein does not disclose "a plurality of panes on a graphical user interface". However, Wygodny does disclose the at least one of the plurality of column oriented programming language statements is selectable in a first pane (Wygodny: fig. 5 item #501; Column 12, lines 54-56) of a plurality of panes on a graphical user interface (Wygodny: fig.5; Column 12, lines 54-56); and displaying one or more editable fields corresponding to the at least one statement type on a second pane (Wygodny: fig.5 items #504; Column 12, lines 54-56) of the plurality of panes (Wygodny: fig.5 items #501 and 504; Column 12, lines 54-56) on the graphical user interface (Wygodny: fig.5), wherein the graphical user interface is used for editing the plurality of column oriented programming language statements individually (Wygodny: fig.5 item #501), and wherein the graphical user interface is adapted to receive content for the one or more editable fields from the user to define the at least one of the plurality of column oriented programming language statements (Wygodny: fig.5 item #504). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a plurality of panes on a graphical user interface in Reulein's system. One would have been motivated to include a plurality of panes on a graphical user interface to show different option such as filter tree pane #501 and a source code pane #504 (Wygodny: fig.5: items #501 and #502; Column 12, lines 54- 56).

Claims 2, 9, 16 and 23: Reulein in view of Wygodny discloses method, system and product of claims 1, 8, 15, & 22 respectively and further comprising permitting the at least one of the plurality of column oriented programming language statements to be selected by the user for replacement (Reulein: Paragraph [0042], lines 6-12).

Claims 3, 10, 17 and 24: Reulein in view of Wygodny discloses method, system and product of claims 2, 9, 16, & 23 respectively and further comprising permitting a position in the plurality of column oriented programming language statements to be selected by the user for insertion of the at least one of the plurality of column oriented programming language statements (Reulein: Paragraph [0042], lines 6-14).

Claims 4, 11, 18 and 25: Reulein in view of Wygodny discloses method, system and product of claims 3, 10, 17, & 24 respectively and further comprising displaying a field difference indicator on the graphical user interface for each of the one or more editable fields whose contents has been changed by [[said]] the user (Reulein: Paragraph [0032], lines 5-8).

Claims 5, 12, 19 and 26: Reulein in view of Wygodny discloses method, system and product of claims 4, 11, 18 & 25 respectively and further comprising one of: selectively replacing the at least one of the plurality of column oriented programming language statements; and inserting the at least one of the plurality of column oriented

programming language statements in the first pane (Wygodny: Column 21, lines 11-17).

Claims 6, 13, 20 and 27: Reulein in view of Wygodny discloses method, system and product of claims 5, 12, 19 & 26 respectively and further comprising displaying a user selectable apply button on the graphical user interface for initiating said one of the selectively replacing and the inserting (Reulein: Paragraph [0075], lines 9-16).

Claims 7, 14, 21 and 28: Reulein in view of Wygodny discloses method, system and product of claims 1, 8, 15, & 22 respectively; the template description is an extensible mark-up language document. (Reulein: Paragraph [0024], lines 9-16).

(10) Response to Argument

Regarding claim 1:

Appellant argues that Reulein fails to teach "identifying a template description for at least one of the plurality of column oriented programming language statements" because all of the rules of Reulein are defined in the table. The Examiner respectfully disagrees since Reulein teaches replacing a component with a different component from the repository ([0075]). As such, Reulein reasonably teaches "identifying a template description..."

Appellant arguments "Further, as stated in the Office Action, Reulein fails to disclose, "a plurality of panes on a graphical user interface." Therefore, Reulein fails to teach or suggest the features as currently claimed in claim 1." The Examiner notes that

this argument attacks the Reulein reference individually since rejection relies on Wygodny to teach this feature.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Appellant argues that Wygodny neither teaches nor suggests "editable fields corresponding to the at least one statement type" as currently claimed.....Wygodny does not allow the editing of the programming language statements". The Examiner respectfully disagrees since the check boxes can be associated with different value (check or unchecked), it is reasonable to interpreted those check boxes as "editable fields".

Appellant further argues Wygodny teaches away from the invention of claim 1. However, as explained above, since the check boxes can be associated with different value (check or unchecked), it is reasonable to interpreted those check box as "editable fields. As such, Appellant argument is not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does

not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to Appellant argument "No Proper Reason Stated Under KSR", it is noted that the Supreme Court has held that "a patent for a combination which only unites old elements with no change in their respective functions...obviously withdraws what is already known into the field of its monopoly and diminishes resources available to skillful men...The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int'l Co. v. Teleflex Inc.*, 2007 U.S. LEXIS 4745, (U.S. 2007).

"Common sense teaches, however, that familiar items may have obvious uses beyond their primary purposes, and in many cases a person of ordinary skill will be able to fit the teachings of multiple patents together like pieces of a puzzle...the fact that a combination was obvious to try might show that it was obvious under section 103." *KSR Int'l Co. v. Teleflex Inc.*, 2007 U.S. LEXIS 4745, (U.S. 2007).

When a patent simply arranges old elements with each performing the same function it had been known to perform and yields no more than one would expect from such an arrangement, the combination is obvious. *Sakraida v. AG Pro, Inc.*, 425 U.S. 273 (1976).

Regarding claim 2

Appellant argues that the combination does not teach "permitting the at least one of the plurality of column oriented programming language statements to be selected by

the user for replacement." The Examiner respectfully disagrees. As explained above, since Reulein teaches replacing a component with a different component from the repository ([0075]) and Wygodny teaches selectable editable fields, the combination would reasonably teach "permitting the at least one of the plurality of column oriented programming language statements to be selected by the user for replacement."

Regarding claim 3

Appellant argues that Reulein fails to teach insertion of a task as claimed. It is noted that "task" is not recited in the claim. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., task) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, Reulein's replacement of a component with another component can be reasonably interpreted as another component is inserted.

Regarding claim 4

Appellant argues that the combination does not teach or suggest "displaying a field difference indicator on the graphical user interface for each of the one or more editable fields whose contents has been changed by the user." The Examiner respectfully disagrees. Reulein teaches using color and boxes to indicate the status of the project, Wygodny teaches selectable editable fields, content of which can be changed (checked/unchecked). As such, the combination reasonably teaches

"displaying a field difference indicator on the graphical user interface for each of the one or more editable fields whose contents has been changed by the user."

Regarding claim 5

Appellant argues that the combination does not teach "selectively replacing the at least one of the plurality of column oriented programming language statements; and inserting the at least one of the plurality of column oriented programming language statements in the first pane." since "Wygodny does not teach selectively replacing and inserting statements, as claimed". The Examiner respectfully disagrees since Reulein teaches replacing a component with a different component from the repository ([0075]), the combination of Reulein and Wygodny reasonably teaches the claimed feature.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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